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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,616	12/22/2000	Robert Eugene Krautkramer	659/773	4594
757	7590	11/04/2004	EXAMINER	
BRINKS HOFER GILSON & LIONE			PRONE, JASON D	
P.O. BOX 10395			ART UNIT	
CHICAGO, IL 60610			PAPER NUMBER	
			3724	
DATE MAILED: 11/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,616

Applicant(s)

KRAUTKRAMER ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 1-30, 43, 45, 46 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-42, 44 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "length dimension", of claims 38, 39, and 44, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 38, 39, 44, and 47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear from all the Figures and the specification what direction the length parameter is measured. Figure 4 labels every dimension (142, 145, 147, and 150) but the length.

On page 5 line 21, the phrase "plurality of circular saw blades; exerting an upward vertical force on the rolls" is unclear. It appears that the cutting would be completed by the time the log reaches top dead center of the sprocket as shown in Figure 2. The vertical component of the saw blade's direction does not take effect until after the top dead center of the sprocket and after the log has been severed and no longer has any contact with the blade. The blade only makes contact, thereby applying a force, when the log is on the right side of the top dead center position of the sprocket. On this right side, the blade only creates a downward component and a leftward component on the log. Therefore, it is unclear how the blade can create an upward vertical force on the log when the blade no longer contacts the log when an upward vertical force can be made.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 31-42, 44, and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. In regards to claims 31, 44, and 47, the phrase "pocket configured to maintain the log in the pocket without the use of an external structure to hold the log in the pocket" is unclear. Using Figure 2, roll retention device (24) is clearly an external structure holding the log in the pocket. Therefore, it is uncertain how this limitation in claims 31, 44, and 47 can be made when the invention itself does not comply.

7. In regards to claims 38, 39, and 47 the term "a length" is unclear. It is unclear what direction the length parameter is measured.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 31-36 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheless (see page 9 of this office action for examiner added clarifying reference numbers).

Wheless discloses the same invention including a cutting device (50), a pocket (15), that the pocket is configured to maintain the log in the pocket without the use of an external structure to hold the log in the pocket (80), that the pocket includes an open end (81), a closed end (82), a first planar surface (83 in between lines), a second planar

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surface (84 in between lines), that the second planar surface is larger than the first planar surface (83 and 84), a concave surface between the planar surfaces that forms the closed end (82), a plurality of channels (Fig. 1), a sprocket (10) that support the pocket and rotates about an axis (11), that the distance between the first and second planar surfaces is greater than the diameter of the log (16), that the cutting device exerts a force on the log (Fig. 4), that the pocket counterbalances the forces (Fig. 4), that the first planar surface and the concave surface counterbalance the forces exerted on the log (Fig. 4), that the cutting device is configured to pass through the channels (Fig. 1), and that the sprocket supports a plurality of sprockets (Fig. 4).

10. Claim 47 is rejected under 35 U.S.C. 102(b) as being anticipated by Bush, Jr. et al. (3,908,495).

'495 discloses the same invention including a plurality of pockets (37), that the pockets being positioned to support the substrate along its length (Fig. 1), a plurality of circular saw blades (58), that the saw blades cut the substrate into a plurality of rolls and exert an upward vertical force on the rolls while the blades are in contact with the rolls (58), that the pockets are configured to maintain the rolls in the pocket without the use of an external structure to hold the rolls in the pocket (37).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wheless in view of '495. Wheless discloses the invention but fails to disclose that the cutting device comprises circular saw blades. '495 teaches a cutting device that comprises circular saw blades (58). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wheless with circular saw blades, as taught by '495, to create a more efficient cutting apparatus.

13. Claims 38-41 are rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Wheless. Wheless discloses the invention but fails to disclose that the first planar surface has a width less than about 25mm and a length between 50mm and 360mm, that the second planar surface has a width less than about 155mm and a length between 50mm and 360mm, that the concave surface has a radius of curvature between 12mm and 130mm, and that the distance between the planar surfaces is between 50mm and 250mm. The logs appear to be between 4 inches and 15 inches (column 1 lines 5-6 in Wheless). In view of this, if one were using the small log (4 inches) it would have been obvious to have made the dimensions of the pocket smaller. These dimensions (the width, length, radius of curvature, and the distance between the planar surface) would have been within an obvious variance in formulating the characteristics of the pocket wherein several millimeters more or less of the desired dimensions would appear to be a matter of practicality of the respective parameter of the work piece.

14. Claim 44 is rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Wheless. Wheless discloses the invention including a pocket (15)

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including a base defining a horizontal axis (10) , an open end (81), a closed end (82), a first planar surface (83), a second planar surface (84), a curved surface (82), that the planar surfaces are at an angle of 60-degrees above the horizontal axis (83 and 84) and that the pocket is configured to maintain the log in the pocket without the use of an external structure to hold the log in the pocket (80) but fails to disclose that the first planar surface has a width less than about 25mm and a length between 50mm and 360mm, that the second planar surface has a width less than about 155mm and a length between 50mm and 360mm, that the concave surface has a radius of curvature between 12mm and 130mm, and that the distance between the planar surfaces is between 50mm and 250mm. The logs appear to be between 4 inches and 15 inches (column 1 lines 5-6 in Wheless). In view of this, if one were using the small log (4 inches) it would have been obvious to have made the dimensions of the pocket smaller. These dimensions (the width, length, radius of curvature, and the distance between the planar surface) would have been within an obvious variance in formulating the characteristics of the pocket wherein several millimeters more or less of the desired dimensions would appear to be a matter of practicality of the respective parameter of the work piece.

Response to Arguments

15. Applicant's arguments with respect to claims 31-42, 44, and 47 have been considered but are moot in view of the new ground(s) of rejection. Wheless clearly shows a pocket capable of maintaining a log within the pocket without external help.

Conclusion

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287.

The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JP
October 28, 2004



Allan N. Shoap
Supervisory Patent Examiner
Group 3700

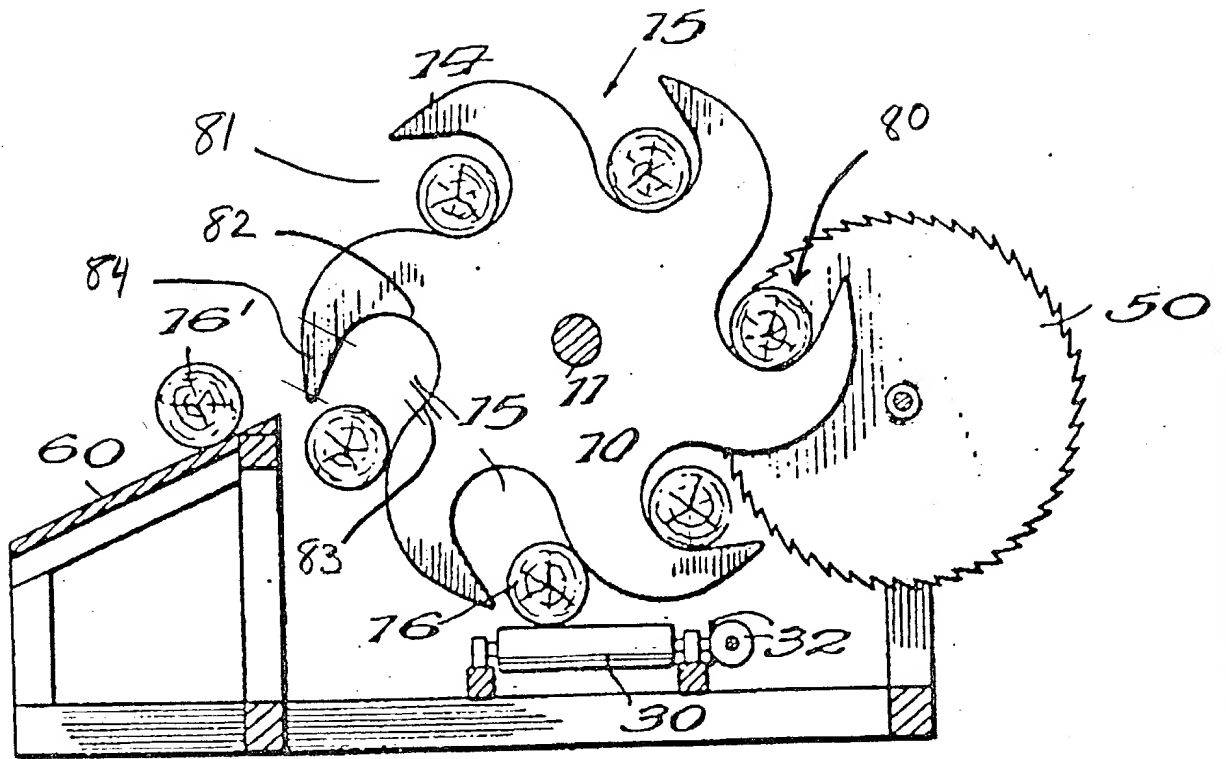


Fig. 4